

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

CALIFORNIA UNION OF SAFETY
EMPLOYEES,

Charging Party,

v.

STATE OF CALIFORNIA (DEPARTMENT OF
MENTAL HEALTH),

Respondent.

Case No. LA-CE-563-S

PERB Decision No. 1477-S

February 28, 2002

Appearance: Linda M. Kelly, Legal Counsel, for California Union of Safety Employees.

Before Amador, Baker and Whitehead, Members.

DECISION

AMADOR, Member: This case comes before the Public Employment Relations Board (PERB or Board) on appeal by the California Union of Safety Employees of a Board agent's dismissal of its unfair practice charge. The charge alleged that the State of California (Department of Mental Health) violated section 3519(b) and (c) of the Ralph C. Dills Act (Dills Act)¹ when it unilaterally transferred work performed by Bargaining Unit 7 members out of the unit.

¹ The Dills Act is codified at Government Code section 3512 et seq. Section 3519 states, in pertinent part:

It shall be unlawful for the state to do any of the following:

(b) Deny to employee organizations rights guaranteed to them by this chapter.

After review of the entire record in this matter, the Board reverses the Board agent's dismissal and remands the case to the PERB General Counsel's office for further investigation and processing consistent with this decision.

DISCUSSION

The Board agent dismissed the charge on the ground that the charge must be deferred to the grievance arbitration machinery contained in the parties' collective bargaining agreement in accordance with the Board's precedent in Lake Elsinore School District (1987) PERB Decision No. 646 (Lake Elsinore).

As the Board has recently decided State of California (Department of Food and Agriculture) (2002) PERB Decision No. 1473-S (Food and Agriculture), which overruled Lake Elsinore, it is necessary to remand the case to the PERB General Counsel's office for further processing consistent with the Board's decision in Food and Agriculture.

ORDER

The Board REVERSES the Board agent's dismissal of the unfair practice charge in Case No. LA-CE-563-S and REMANDS the case to the PERB General Counsel's office for further processing consistent with this Decision.

Members Baker and Whitehead joined in this Decision.

(c) Refuse or fail to meet and confer in good faith with a recognized employee organization.